(Spl.-H.C.A.S.,C.D.,78-e)

FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF BOMBAY AT GOA
APPELLATE SIDE

APPEAL FROM ORDER NO. 33 OF 2004

Office Note, Office Memoranda of Quorum, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's Orders

Shri M. B. D'Costa, Senior Advocate with Shri J.A. Lobo, Advocate for the appellants.

CORAM : S. A. BOBDE, J.

DATE : 29th July, 2004

P.C.:

This Appeal is directed against the Order dated 24th March, 2004, by which the trial Court has allowed the respondents' application for temporary injunction. The trial Court has thereby restrained the defendant nos.1,2,5,6,7 and 8 from creating any third party rights in respect of plot nos. 28, 29, 30, 31, 32, 33, 34, 35, 36 and 37.

2. The said defendants have appealed. Shri D'Costa, learned counsel for the appellants, argued that even those who are not parties to the agreement have been

restrained by the trial Court, which is not permissible. It appears that there is no formal agreement between the parties. Hence, the correctness of this argument cannot be properly investigated at the stage of grant of temporary injunction. In fact, it is clear from the order that the trial Court has relied on the receipts to come to the conclusion that there is an agreement. It is observed that the plaintiff has paid development charges amounting to Rs.1,82,490/- to the S.P.D.A. at the request of the defendants and also paid an amount of Rs.7,30,000/- to the defendants. This amount appears to have been received by different co-owners at different times. In this view of the matter there is nothing which warrants interference with the exercise of discretion by the trial Court at this stage.

3. The Appeal from Order is dismissed.

4. The appellants are at liberty to apply to the trial Court for expeditious disposal of the suit.

S.A. BOBDE, J.

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